

REMARKS

In the Office Action, claims 1-6 were rejected and the drawings were objected to. By the present Response, claims 1-6 are amended, new claims 7-14 are added, and new formal drawings are appended. Upon entry of the amendments, claims 1-14 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Objections to the drawings

Although the Examiner did not formally mention deficiencies in the drawings as filed, the Notice from the Draftsperson indicated that replacement drawings were required. By the present response, such replacement drawings are submitted. No new matter has been added. Approval of the replacement drawings is requested.

Rejections Under 35 U.S.C. § 102

Claims 1-6 were rejected under 35 U.S.C. § 102(e) as being anticipated by Aimoto, U.S. Patent No. 6,570,876. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. The Applicants respectfully assert that the present invention, as claimed in amended independent claims 1, and 4 is patentable over the Aimoto reference. The Aimoto reference does not disclose each element of the present invention as claimed in independent claims 1, and 4.

Based on the Examiner's analysis, the claimed smart node of the present application would correspond to the switch (1) of the Aimoto reference. The referenced switch (1) of the Aimoto reference may be capable of receiving packets incoming from the network by the packet receiving unit, storing packets in buffer memory by the relaying priority control unit, and transferring packets to the packet relaying unit according to priority based on the header information of the received messages. However, as claimed, the smart node of the present application is capable of storing programming instructions, receiving messages for relay from a source unit, determining at least a merit value and

dynamically reprioritizing said received messages based on said merit value for relay and transmitting the reprioritized received messages.

At the very least, Aimoto completely fails to provide an enabling disclosure on these point capable of supporting a *prima facie* case of anticipation. The reference does not disclose or even suggest actual dynamic reprioritization. Rather, messages are simply prioritized in the Aimoto system. Similarly, Aimoto does not perform any operation similar to determining a merit value as claimed. Accordingly, any prioritizing performed by Aimoto cannot be based on any such value.

Therefore, for at least this reason, the present invention, as claimed in independent claims 1 and 4 is not anticipated by the Aimoto reference. Claims 2, 3, 5, and 6 depend directly or indirectly from claim 1 and claim 4. Accordingly, the Applicants submit that claims 2, 3, 5, and 6 are allowable by virtue of their dependency from the allowable base claims, as well as for the subject matter they separately recite. Thus, it is respectfully requested that the rejections of claims 1-6 under 35 U.S.C. §102(e) be withdrawn.

New independent claim 7 recites a method that includes steps similar to the functions enumerated for the smart node of claim 1. As noted above, Aimoto neither discloses nor suggests steps such as determining a merit value or reprioritizing messages based upon such a value. Accordingly, claim 7 and the claims depending therefrom are believed to be clearly patentable over Aimoto. Their consideration and allowance are respectfully requested.

Conclusion

In view of the remarks and amendments set forth above, the Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: August 11, 2004


Patrick S. Yoder
Reg. No. 37,479
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545